

# Protecting the community while providing treatment:

## Special Commitment Center

In 1990, the Washington State Legislature passed the Community Protection Act, which created the Special Commitment Center (SCC) - a mental health treatment facility for sex offenders located within the secure perimeter of the McNeil Island Corrections Center in Pierce County. The purpose of the SCC is to provide mental health treatment to sex offenders who have completed their prison sentence, but who have been judged to be “more likely than not” to re-offend. To be sent to the SCC, an offender must have a mental abnormality that can be treated by mental health professionals.

This means that only a tiny fraction - about three percent of the approximately 1,000 sex offenders released from prison each year - are sent to the SCC. The rest are released directly to the community. This includes people who are likely to re-offend, but do not have a mental abnormality.

DSHS was assigned responsibility for establishing and managing the SCC because it is a public mental health facility. The SCC budget is included in the Health and Rehabilitative Services Administration of DSHS.

In 1994, a federal judge ruled that the SCC must provide more mental health treatment, and that offenders must have an opportunity to graduate to less restrictive living arrangements when they progress and meet certain criteria in treatment.

To meet this requirement, DSHS established a transitional facility, also on McNeil Island, and is working with county and local governments to site “less restrictive alternatives” (LRAs) in the home counties of offenders who will be released from the SCC in the next few years.

## How civil commitment to the SCC works

An End of Sentence Review Committee reviews the cases of all sex offenders when they are nearing the end of their prison sentences. This committee is chaired by the Department of Corrections, and includes representatives from several other agencies and organizations. The committee assigns a “level” to each offender, based on the seriousness of their crime and their likelihood to re-offend. Level One is the least dangerous; Level Three is the most dangerous.

Of the Level Three offenders, the committee chooses those who meet the legal criteria for commitment to the SCC - that is, those who are more likely than not to re-offend and have a mental abnormality - for referral to a psychologist. The psychologist evaluates them and makes recommendations. The committee then sends its recommendations to local prosecutors, who, after getting more expert advice and consultation, file for a probable cause hearing. Offenders have a right to a trial within 45 days of being referred for SCC commitment.

There are currently about 170 men housed in SCC programs. One woman is housed separately at the state's prison for women.

Those who are committed to the SCC receive ongoing treatment for their mental abnormality. Treatment is based on a standard, nationally accepted model that is similar to treatment for alcohol or drug addiction. There are general outcome studies that show that this approach is effective, but since so few of the sex offenders who've received this treatment have been released there is no data yet on how effectively it prevents re-offense.

Washington state was the first to create the legal framework of the SCC, and although over a dozen states have since passed similar laws, there are still only about 2,100 civilly committed sex offenders nationwide.

## Challenges for the Special Commitment Center

### Public understanding of its mission

The mission of the SCC is to provide mental health treatment to Level 3 sex offenders who have a mental abnormality. It cannot violate the constitutional rights of offenders who have already completed their prison sentences by simply keeping them under lock and key for life. The courts require that offenders have a reasonable chance of succeeding in treatment and earning eventual release to less restrictive facilities.

This mission - and the limitations imposed by the courts - are not always easy for the public to understand or accept.

### Confusion about public policy regarding sex offenders

In nearly every legislative session since the 1990 passage of the Community Protection Act, the Legislature has changed or added laws regarding sex offenders. Generally speaking, the changes have been designed to provide ever-higher levels of public safety.

When the SCC was first created it was seen by some as a way to keep people locked up indefinitely. For constitutional reasons, the courts didn't let that happen. So the Legislature passed a "two strikes" bill that provided life sentences for second-time sex offenders. However, prosecutors were reluctant to use this tool, and plea bargaining meant that very few offenders received life sentences. So the Legislature passed another law that re-introduces open-ended sentences - sentences that can be extended by parole boards with review once every two years. This law applies only to those who committed crimes after September 2001.

These changes mean that offenders are subject to different laws depending on the date of their offense and conviction. This leads to further public confusion - and this uncertainty makes the public feel less confident that the state is doing what they want it to do, which is to keep them safe.

People are also confused about what happens when sex offenders complete their sentences. Most do not realize that the vast majority of offenders - including the most dangerous Level 3 offenders - never enter the SCC, but are released to communities with a much lower level of supervision. Nor do they realize that community notification laws have made it extremely difficult for released offenders to find a place to live. One third of them are homeless transients - a condition that probably increases the chances that they will re-offend.

Attention to the issues surrounding the SCC and the creation of LRAs has so distracted public attention that the issue of these less supervised offenders has been obscured. Eventually, media and public attention will catch up with this issue, and will probably create a new demand for legislation to provide greater oversight and control of these offenders.

### The creation of Less Restrictive Alternative Facilities

No one wants an LRA facility in their county, much less their neighborhood. Siting these facilities has already proved extremely difficult and is not likely to get any easier. The State Legislature has made it clear that six counties that had five or more offenders in the SCC as of April 1, 2001 must allow siting of facilities to house them

when they are released. But the communities in which these facilities will be located will insist on a very high level of supervision and oversight of every one of the returning offenders - and the Legislature recognized this fact by writing very stringent security requirements for LRAs. This means that when they are finally created, LRAs will be very expensive to operate.

DSHS's Developmental Disabilities Services already operates a program similar to LRAs for certain sex offenders (and others who have committed serious or violent crimes). These programs are voluntary, and they house people with mental retardation or other developmental disabilities who have completed their sentences or have been judged not competent to stand trial. Participants in these programs live in rental houses - usually in groups of two or three - and have around-the-clock supervision. When they go to work, to the grocery store, or anywhere else, a staff person goes with them, watches them, and returns home with them. The current per person cost of these programs is \$279 per day, or just over \$100,000 per year.

Today, keeping an offender in prison costs about \$25,000 a year; keeping an offender in the SCC costs about \$100,000 a year. Some of the models for LRAs would cost \$400,000 per year per offender.